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Mystery Spy or Freedom

By ORR KELLY

IN THE HIGH-CEILINGED main courtroom of the Federal building in Baltimore, Chief Federal Judge Roszel C. Thomsen listened intently as the lawyers before him argued their case.

On the surface it was a routine case: Civil Action No. 15952, a complaint in damages for slander, Eerik Heine, plaintiff, v. Juri Raus, defendant. "It seemed to be a petty dispute between two members of the Estonian community.

But at one point, Judge Thomsen leaned forward and said:

"If further information were revealed, it might expose the entire U.S. counter-espionage apparatus."

Clearly Heine v. Raus was something special.

OVER THE last 17½ months, the file on Civil Action No. 15952 has grown into a documented tale of intrigue as gripping and as puzzling as any spy story.

The plaintiff, Eerik Heine, is a 46-year-old Estonian. He now lives in Rexdale, Ont., a suburb of Toronto, and by his own story of his life is one of the great freedom fighters of all time. On three separate occasions, he said in his suit, Raus accused him of being a Communist, and an agent of the K.G.B., the dread Soviet secret police.

Raus, the man accused of slandering Heine, is an admitted agent of the Central Intelligence Agency and, in CIA's own words, "was instructed to disseminate such information . . . so as to protect the integrity of the Agency's foreign intelligence sources."

RAUS IS 39, lives at 6508 Oxborne Rd., Hyattsville, Md., and is an engineer for the Bureau of Public Roads and national commander of an Estonian veterans' organization, Eesti Vabadussõjalaste Liit (the Legion of Estonian Liberation, Inc.).

Heine is asking \$10,000 in compensatory damages and \$100,000 in punitive damages in the suit, filed in the U.S. Dis-

EDITOR'S NOTE: If you think Ian Fleming's stories of spies and duplicity and 007's activities are exciting, the story of a real-life trial going on right now might prove once again that truth is stranger than fiction.

Eerik Heine of Rexdale, Ont., is suing a man named Juri Raus of Hyattsville, Md., for \$10,000 in compensatory damages and \$100,000 in punitive damages because Raus called Heine an agent of the Russian secret police, the KGB.

The problem is, Raus at the time was an agent of our own Central Intelligence Agency — and his statement was made in the line of duty. And further, the information about that statement is shrouded in secrecy.

trict Court in Baltimore on Nov. 6, 1964. He is represented by two Washington attorneys, Ernest C. Raskauskas and Robert J. Stanford.

The importance of the case began to emerge when, early in January, 1965, Raus' answer was filed through Hogan & Hartson, one of Washington's major law firms. His attorneys were Paul R. Connolly, a top trial lawyer, and E. Barrett Prettyman Jr., former assistant U.S. attorney general, former White House special assistant and a major figure in negotiations for the release of the Bay of Pigs prisoners.

The statements he had made about Heine, Raus said in his answer, were made in his official capacity as commander of the Estonian Legion and, he added, he "was in possession of responsible information received by him from an official agency of the United States government." He did not mention the CIA at that time.

Raus' charges created a bitter split in the Estonian community in North America, which numbers some 20,000 to 30,000 persons. August Kuklane of 4714 St. Thomas Ave., Baltimore, a contractor and Maryland commander of the Estonian Legion, recalled in a recent interview his reaction when he first heard the charges. "I have such a feeling as

someone hit me on head," he declared.

KUKLANE SAID he put the issue very forcefully to both men. "I pointed my finger at Heine and I told him, 'You know what that means. If you are guilty, it means the rope.' And I told Yuri Raus, 'If this man is innocent, you have done a deadly sin.'"

Members of the Estonian community urged Heine to file suit so that the truth or falsity of the accusations could be learned.

For Judge Thomsen the case has posed a legal problem unlike any a U.S. judge has ever faced. Raus has claimed absolute privilege because, he says, he was acting as an official of the U.S. government. Further, he is bound by a secrecy agreement with the CIA which apparently prevents the court or Heine's lawyers from inquiring into the nature of his duties as a CIA agent.

In a hearing on March 11, Connolly summed up the dilemma faced by Judge Thomsen:

"If indeed the plaintiff is an innocent law-abiding citizen, a dedicated fighter for his homeland, if he is a person who has all his life opposed the Soviet conquest of his homeland and has fought So-



EERIK HEINE

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HEINE'S ADVOCACY as an advocate of Estonian liberation came to a climax of sorts in the spring of 1963.

In March of that year, he completed a 2½-hour, 16mm film about the Estonian guerrillas, called "Legendi Loojad" or, in English, "Creators of Legend."

He then toured the United States, showing the movie and lecturing primarily to Estonian audiences, on his experiences as a guerrilla. It was shown in Baltimore May 18 and in Washington May 19, 1963.

The only hope for Estonia, he told his audiences, is the complete overthrow of the Communist world.

"I am," he said during a recent interview in the booklined living room of his home in Toronto, "a Goldwater man."

It was during his tour of the United States, he said, that he first began to hear the rumors that he was a K.G.B. agent although the first of the three specific instances of alleged slander cited in his complaint occurred in New York on Nov. 9, 1963.

The beginning of Heine's lecture tour coincided with another incident that brought him into prominence in the Estonian community. Although he describes himself as "a fighting man, not a politician," he ran for a position on the 35-member board of the Estonian Cultural Council, the central agency for Estonian groups in Canada, in May, 1963.

He received 400 to 500 votes more than his closest competitor—he terms it a "landslide"—and could then expect to be named the President of the council. But, because of the rumors about him, he said, he declined that post. He is, however, one of some 60 candidates in another election to be held next month.

WITH FINANCIAL help from Estonian acquaintances who were eager to learn the truth or falsity of the charges against him, Heine filed suit in November of 1964.

He asserts that Juri Raus accused him of being a Communist and a K.G.B. agent on Nov. 9, 1963 at a meeting of the board of the Legion of Estonian Liberation in New York; on July 4, 1964, at an Estonian gathering at Laurel Acres, Pasadena, Md., and on or about Sept. 4, 1964 at a gathering at Estonian House in Baltimore.

In his answer, filed on Jan. 3, 1965, Raus admitted that he had said, at the New York meeting "that he was in possession of responsible information received by him from an official agency of the United States government to the effect that the plaintiff was a Soviet agent or collaborator . . ."

He also admitted speaking to Kuklane, the Baltimore Estonian, on an earlier occasion than the dates mentioned in the suit "in substantially the same terms," but he denied making the statements at the times mentioned in the suit.

In an affidavit filed a few days later, Raus said that he was born and reared in Estonia, that he was 38 years old, that he came to the United States as an emigre in 1949 and that he is now a naturalized citizen.

At that time, he said, he was a GS-12 in the Bureau of Public Roads at a salary of \$10,605 a year and that he was married and had two children, aged five and two. His only other income, he said, was \$1,000 a year received as a captain in the Army reserve. No mention of the CIA appears in the court record until January of 1966.

THE CIA turned up after the taking of the Heine deposition in February and March of last year. That was on Jan. 11 of this year, when Raus' attorneys filed a motion for summary judgment. They claimed he had absolute privilege because he was acting as an official of the United States government.

Attached to the motion was a one-page affidavit signed by Richard Helms, deputy director of Central Intelligence, in which he said:

"On those occasions specified in paragraphs 5, 6 and 7 of the complaint, the defendant, Juri Raus, was in possession of information furnished to him by the Central Intelligence Agency and when he spoke concerning the plaintiff on such occasions he was acting within the scope and course of his employment by the Agency on behalf of the United States."

The motion filed by Prettyman and Connolly said:

"Under these circumstances, there arises in favor of the defendant an absolute privilege which precludes, even under a showing of actual malice, any possibility of recovery by the plaintiff. As a matter of law,

the defendant is entitled to judgment."

They were on good legal grounds. In a number of cases the Federal courts have held that it is in the country's interest to protect government officials from libel or slander suits for things they say in the course of their official duties—even if they speak falsely and with malice.

IN THEIR reply Heine's attorneys Raskauskas and Stanford, argued that it was unfair to permit the defendant to add a totally new element to his defense more than a year after the suit had been filed.

"He leads this Court to believe that he has extremely limited resources from which to conduct this litigation and nowhere does he suggest, that in the event that his then assisting defenses proved to be fictions, he has the majesty of the United States, the money of the CIA, and the mockery of absolute privilege hovering on a standby basis, to be thrust upon this Court and the plaintiff in case of need," they said.

Judge Thomsen seemed deeply disturbed by the dilemma he faced. At one point, he said: " . . . I think that the plaintiff is entitled, assume the plaintiff is a Communist, assume he is everything you say, everybody has some rights in this country . . ."

ON APRIL 4, responding to the concern expressed by the Judge, Raus' attorneys filed a new affidavit signed by Helms in which he gave more details of Raus' employment by the CIA. He said:

"For a number of reasons, including his past history and his position as National Commander of the Legion of Estonian Liberation, the defendant has been a source to this Agency of foreign intelligence information pertaining inter alia to Soviet Estonia and to Estonian emigre activities in foreign countries as well as in the United States.

"The Central Intelligence Agency has employed the defendant from time to time—concurrently with his duties on behalf of the Bureau of Public Roads—to carry out specific assignments on behalf of the Agency . . .

"On those occasions specified in paragraphs 5, 6 and 7 of the complaint, the defendant was furnished information concerning the plaintiff by the Central

Intelligence Agency and was instructed to disseminate such information to members of the Legion so as to protect the integrity of the Agency's foreign intelligence sources. Accordingly, when Juri Raus spoke concerning the plaintiff on the occasions about which complaint is made, he was acting within the scope and course of his employment by the Agency on behalf of the United States.

"After a personal review of the Agency's activities pertaining to Erik Heine, I have reached the judgment on behalf of the Agency that it would be contrary to the security interests of the United States for any further information pertaining to the use and employment of Juri Raus by the Agency in connection with Erik Heine to be disclosed . . .

"I am herewith directing Juri Raus to make no further disclosures concerning his employment by the Agency or relating to this matter without specific authorization by proper officials of the Central Intelligence Agency."

ATTACHED TO the affidavit was a secrecy agreement signed by Juri Raus on May 29, 1963 in which he promised never to divulge information obtained because of his association with the CIA without written permission.

During the hearing last week, Judge Thomsen seemed several times to be on the verge of granting Raus' motion for summary judgment based on his claim of absolute privilege. But he ended the hearing with a request for one more attempt to see if the CIA is able to provide any further information.

What is the whole truth about Erik Heine?

In the more than a thousand pages of the court record there is no satisfactory answer. At this stage of the case a fact, Raus, relying on the defense of privilege, has not even asserted that the things he said about Heine are true.

Because of the secrecy surrounding the case, the full story of Erik Heine, Juri Raus and the CIA may never be told.